



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application No. 10/775,633

Confirmation No. 1325

Applicant: Kevin Burak

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TC/AU: 2473

Examiner: LAI, ANDREW

Docket No.: 226432 (Client Reference No. 02,011)

Customer No.: 23460


REPLY TO EXAMINER'S ANSWER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

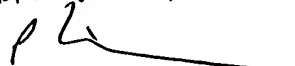
Sir:

In response to the Examiner's Answer dated October 30, 2009, Applicants submit herewith a reply.

Respectfully submitted,


Phillip M. Pippenger, Reg. No. 46,055
LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6731
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

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Response to Examiner's Answer

As can be seen from Applicant's Brief and the Examiner's Answer, the primary issue on appeal now appears to be the meaning of the term "switched network." Under current law and PTO rule, the Examiner is free to give the term its broadest reasonable interpretation. However, any interpretation that ignores the definitions of the specification and the knowledge in the art is *per se* unreasonable. In the present case, not only is the term "switched network" well known in the art, but it is also used in the specification in a manner that is consistent with and adopts this well-known definition, as discussed in the Brief.

The Examiner's Answer states that a switched network is any network wherein something changes (direction, path, etc.). This may well match the perception of one who is *not* skilled in the art, but to those of even minimal schooling and experience in the art, the term "switched network" is a term of art. When, as here, the claims use a known term of art, and the specification uses the term in the same way, and there is nothing in the record to disclaim the known art meaning, an Examiner's definition that ignores the known meaning is overreaching and unreasonable.

By way of analogy, consider the term "collision detection network," which has also come up during this prosecution. Those of skill in the art know that this term refers to network transmission collisions, not automobile collisions or asteroid collisions, and any broader definition would be immediately suspect. The same is true here – the term "switched network" is a very specific term of art, that is well known to those of skill in the art, and the Examiner's interpretation ignores both this vast knowledge in the art as well as the specification itself.

The claims expressly require the use of or operation within a switched network. The cited art pertains to collision detection networks, not switched networks. As previously discussed, those of skill in the art readily appreciate that these two network types are mutually exclusive and operate according to completely different principles. As such, there is no prima facie case of unpatentability pending against any claim, and allowance of all claims is warranted.